

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Sixth Session
February 11, 2011**

The Committee on Judiciary was called to order by Chairman William C. Horne at 8:06 a.m. on Friday, February 11, 2011, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman William C. Horne, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Steven Brooks
Assemblyman Richard Carrillo
Assemblyman Richard (Skip) Daly
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Jason Frierson
Assemblyman Scott Hammond
Assemblyman Ira Hansen
Assemblyman Kelly Kite
Assemblyman Richard McArthur
Assemblyman Mark Sherwood

COMMITTEE MEMBERS ABSENT:

Assemblyman Tick Segerblom (excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Lucy Flores, Clark County Assembly District No. 28

STAFF MEMBERS PRESENT:

Paul Townsend, Legislative Auditor
Jane Bailey, Audit Supervisor
Rocky J. Cooper, Audit Supervisor
Dave Ziegler, Committee Policy Analyst
Nick Anthony, Committee Counsel
Karyn Werner, Committee Secretary
Michael Smith, Committee Assistant

OTHERS PRESENT:

Patrick J. Conmay, Division Chief, Records and Technology
Division, Department of Public Safety
Julie Butler, Records Bureau Chief, Records and Technology
Division, Department of Public Safety
Catherine Krause, Technology Chief, Records and Technology
Division, Department of Public Safety
Gail Anderson, Administrator, Real Estate Division, Department of
Business and Industry
Kevin Wallace, Vice President of Legislation, Community
Association Management Executive Officers, Inc.
Tierra Jones, representing the Clark County Public Defender's
Office
John V. Cracchiolo, Executive Director, Nevada Catholic
Conference
Mark Woods, Deputy Chief, Division of Parole and Probation,
Department of Public Safety
Steven Burt, Executive Director, The Ridge House
Larry D. Struve, Advocate, Religious Alliance in Nevada
Mario DelaRosa, representing Progressive Leadership Alliance of
Nevada
Orrin J. H. Johnson, Deputy Public Defender, Washoe County
Public Defender's Office
Bradford Glover, Re-Entry Coordinator, Re-Entry Program,
Department of Corrections
Luana Ritch, Chief, Bureau of Health Statistics, Planning,
Epidemiology, and Response, Health Division, Department of
Health and Human Services
Mark Froese, Administrator, Management Services and Programs
Division, Department of Motor Vehicles

Chairman Horne:

[Roll called. The Chairman reminded Committee members, witnesses, and members of the audience of Committee rules and protocol.]

I would like to remind everyone that this Committee hears a variety of different issues, some of which will give rise to passionate debate. I ask that everyone be respectful in that regard. One of the purviews of this Committee is in the law and order aspect: prisons, parole, and probation. We do have attending, from time to time, people from the public who have been incarcerated or have loved ones who are, or were, incarcerated. They have interests and issues that they would like to have explored in our Committee as well. I ask that everyone remember to treat those individuals with the same respect that you would give anyone else. They are entitled to be heard and to be treated respectfully in this Committee and this building.

Paul Townsend, Legislative Auditor:

You should have a fairly large packet of information in front of you and I will give you a high-level overview of each of those. I will start with the Peace Officers' Standards and Training Commission (POST) ([Exhibit C](#)). The first page of it is a one-page audit highlight, but since we have the entire report, I am going to discuss several pages.

Page 5 begins the background. We discuss a bit of the history of POST and how it has moved around within the state's organization beginning in 1965 when it was under the Attorney General's Office. Then it was under the Department of Motor Vehicles and Public Safety, and in 1999 it became a stand-alone commission. The Commission was increased to nine commissioners in 2005. The mission of POST is to develop and deliver professional training, ensuring that all Nevada peace officers and their agencies comply with established statutes and regulations in order to enhance the safety of residents and visitors to the state. To this end, in fiscal year 2008 (FY08), they were authorized 17 full-time positions.

On page 6, we note that POST had about \$3.1 million in expenditures. At the bottom of that page, we note that our objective was to determine whether POST's financial and administrative activities were carried out in accordance with applicable state laws, regulations, policies and procedures. Continuing on page 7, we note that POST did generally comply with state laws and the other requirements that we tested. We did have a couple of issues such as expenditures not recorded to the correct year. On page 8 we note that written contracts were not always established; and on page 9 we note that some personnel and payroll requirements were not followed.

The most significant issue in the report is on page 11, which involved information technology (IT). One of POST's key functions is to maintain all of the state's peace officer training records, which are part of a computerized database stored on their primary server. We found that these records were not sufficiently protected. At the bottom of the page, we discuss an unsecured wireless access point (WAP). During our IT testing, we identified a wireless networking access point in operation in one of their classrooms. This access point did not have any security features enabled, nor was it encrypted. As a result, anyone with a laptop computer could use this point to connect to the POST network. For instance, we were able to access the WAP from the parking lot. It also allowed connectivity to the state's Wide Area Network (WAN), known as the Silvernet. This access increases the risk that a hacker could gain unauthorized access to some of POST's confidential data.

Page 12 explains why this occurred. Some of the IT problems could have been avoided if the agency had implemented the state's IT security standards regarding policies, procedures, and training. When we brought this issue to POST management, they took immediate corrective action.

The agency response is on page 17. All of our reports have a written response from the agency, so you can see their comments and explanations regarding the findings in the report. This audit was issued in 2009 and, through a lot of follow-up processes, all recommendations are completed and implemented.

The next audit review is that of the Office of State Public Defender ([Exhibit D](#)). Starting on page 5 is "Background." We note that, "The mission of the Office of State Public Defender (OSPD) is to provide quality criminal and juvenile legal defense services to rural indigent clients through a cost-effective, independent, responsible, and efficient public defender system." During calendar year 2008, the public defender provided these services to Carson City, Storey, White Pine, Eureka, and Lincoln Counties. They have offices in Carson City and Ely, with 16 authorized positions. Page 6 notes their funding, which comes equally from county assessments and General Fund appropriations for a total of \$2.3 million.

Our objective, as noted on page 7, was to determine whether the public defender's financial, administrative, and reporting activities were carried out in accordance with applicable state laws, regulations, policies, and procedures.

Page 8 is the "Findings and Recommendations." Our overall conclusion is that the public defender did substantially comply with the state laws and requirements that we tested. However, we did note needed improvements in some areas. They need to develop controls for the preparation and submission

of annual reports, and to ensure all reports are issued in accordance with requirements, including accurate, complete, and reliable data that is error free. On page 9, we show the types of reports that we looked at. Reports required by subsection 1(b) of *Nevada Revised Statutes* (NRS) 180.080 were not prepared during the period of our audit, as seen in the second box. These reports are to be sent to participating counties. They show the projected number of cases, and what the cost of those services would be. Those projections are important to the counties when determining whether they want to use these services and whether they are cost-effective and fiscally appropriate.

Page 10 continues with additional concerns about reports, including reliability and completeness of the data. Page 12 notes some errors. And the remainder of the report includes findings on the need to strengthen controls over information systems, personnel, and certain financial activities.

Page 17 notes that we had eight recommendations, but again, the public defender has gone through the audit follow-up process. We are waiting for the required report to be submitted on the one remaining recommendation and then all of the recommendations will be considered fully implemented.

The next report is on the State Board of Parole Commissioners ([Exhibit E](#)).

Chairman Horne:

Of those eight recommendations, you said one was still outstanding. Which one is that?

Paul Townsend:

It was the first one, which involves the submission of required reports. We have been working with the public defender who is making revisions and submitting one final report. Upon receipt, we will consider all recommendations implemented.

Chairman Horne:

Thank you.

Paul Townsend:

Page 4 of the audit report on the State Board of Parole Commissioners (Board) begins the background section. The mission of the Board is "to conduct prompt, fair, and impartial hearings on parole applications and parole violation matters and take appropriate action."

On page 5, we list the basics of the parole hearing process. It notes that, "Parole is the early release and supervision of an inmate who has served time in prison." State laws establish the rules and factors that determine when an inmate is eligible to be considered for parole. The majority of those laws either originated, or flowed through, this Committee. The Parole Board also works with the Department of Corrections (DOC), which is statutorily responsible for determining when an inmate is eligible for parole based on these rules and factors. The DOC does the actual inmate timekeeping and keeps track of inmates' credits. With the exception of mandatory parole hearings, all parole hearings are considered discretionary.

The paragraph at the top of page 6 states, "The Board held about 7,600 parole hearings during fiscal year 2010 (FY10), and granted parole about 61 percent of the time." Our objective with this audit was to evaluate whether the Board of Parole Commissioners conducted parole hearings in accordance with state laws, regulations, policies, and procedures.

Continuing on page 7, we have "Findings and Recommendations" and our overall conclusion, which was fairly positive. Based on our testing, the Board did conduct parole hearings in FY10 in accordance with state laws, regulations, policies, and procedures. We found that they properly notified victims and law enforcement agencies of inmates scheduled for hearings, and they conducted hearings timely upon notice from the DOC. They assessed inmates' parole risks, made decisions in accordance with established guidelines, ensured sex offenders were certified by a psychological review panel before being released, and notified victims of hearing decisions. However, we did note a problem with parole eligibility dates that was not necessarily within the Board's control. This problem can impact the Board's ability to achieve its mission to conduct prompt hearings on parole applications, which is why we have presented it in this report. It affects the whole process. We found that the parole eligibility dates that were provided by the DOC were incorrect for some inmates. As a result, certain inmates were granted parole based on incorrect eligibility dates and were released from prison later than their actual eligibility date would have allowed.

Page 8 discusses what led to this problem. There were law changes in 2007 that affected parole eligibility, enacted through Assembly Bill No. 510 of the 74th Session. The bill required certain credits earned by inmates convicted of specific felonies to be deducted from the minimum sentence when determining

eligibility for discretionary parole hearings. Prior to A.B. No. 510 of the 74th Session, the law required all credits to be deducted from an inmate's maximum sentence. The DOC had to make a number of changes to its computer system that calculates the parole eligibility dates. Although they did make a number of corrections, the system was not changed to deduct work and merit credits from an inmate's minimum sentence as provided for in the revised law. This delayed the eligibility dates of all inmates with qualifying offenses that earned work or merit credits.

Page 9 discusses the work we did with the DOC to determine the extent of the problem. We identified a total of 749 inmates who had been affected. The exhibit shows there was an average of a 24-day delay. The exhibit breaks that down to show that the majority of the delays were less than 30 days. There were a couple of delays over 90 days, and the highest that we identified was 104 days. This has a fiscal impact because of the cost of housing inmates longer than necessary.

The recommendation that we made to the Board of Parole Commissioners is on page 10, which was in conjunction with the DOC, to develop a process to ensure that any future statutory changes affecting parole eligibility are properly implemented. The Board did accept it and they are working with Corrections on the development of a process. Even though it is not necessarily the Board's direct responsibility, they are coordinating it.

On page 14, we have included, as additional information, copies of relevant statutes to the parole function. Again, a lot of these originated in or flowed through this Committee. For your information, we have included, on page 19, a copy of the instrument that the Board of Parole Commissioners uses in assessing risk and guidelines for determining whether to grant parole. Page 21 is the agency's response where they indicate they accept the recommendations as I previously mentioned.

If there are no questions, I will move into another area of the presentation.

Assemblyman Frierson:

In the calculation of credits, and the scheduling of parole hearings, has that issue been resolved? Is the goal to ensure that future changes be adopted quickly?

Paul Townsend:

We did work with the Department of Corrections on that issue and they have been making programming changes. They have indicated that it has been corrected as of October 2010.

Chairman Horne:

Are there any other questions? I see none.

Paul Townsend:

The next two reports involve an additional statutory responsibility of my office, the review of residential children's facilities where children have been placed pursuant to an order of the court. I will ask Jane Bailey to present these reports since she is the supervisor on these reviews.

Jane Bailey, Audit Supervisor:

The first report I would like to discuss is the Review of Governmental and Private Facilities for Children 2010, not December 2010 ([Exhibit F](#)). This report was released in April 2010 and includes the results of the work required by NRS 218G.570 through NRS 218G.585. The report includes the results of our reviews of 13 children's facilities, unannounced site visits to 14 facilities, and surveys of 50 facilities. The purpose of the reviews was to determine whether the facilities adequately protect the health, safety, and welfare of the children in the facilities and whether they respect the civil and other rights of the children in their care.

We have identified a total of 50 governmental and private facilities in Nevada that meet the requirements of Chapter 218G of NRS as of December 31, 2008. This includes 22 governmental and 28 private facilities. Exhibit 1 on page 2 shows the types of facilities, maximum capacity, average population, and staffing levels for calendar year 2008. In addition, 157 Nevada children were placed in 31 facilities in 16 different states outside of Nevada as of December 31, 2008.

Exhibit 2, on page 4, shows the number of children placed in out-of-state facilities and the placing agencies. The results of our reviews begin on page 5 of the report with information on background check requirements for the facilities. All of the 13 facilities reviewed could improve their background check processes. Many of the facilities' processes do not ensure the staff has appropriate backgrounds.

On page 6, exhibit 3 describes some of the most common or serious weaknesses found at the facilities we reviewed. Some of these issues include not conducting periodic post-employment background checks, policies that did not address hiring employees with prior criminal history, files not containing the results of background checks, and obtaining background checks based on social security numbers instead of fingerprints. In addition, the facilities did not always follow up when the results of background checks were not received or the results showed an arrest but no disposition. As a result, one facility had

four employees with felony convictions. However, as a substance abuse treatment facility, it was not required to obtain background checks on all employees.

[Read from page 7 of [Exhibit F.](#)]

Different types of facilities also have different time frames for obtaining background checks and different requirements for periodic post-employment background checks.

Exhibit 4 on page 8 lists the types of facilities included in our review, the statutory or regulatory requirements for background checks and a description of those requirements, and the licensing agency.

Exhibit 5 on page 9 shows the types of licenses and licensing agencies and provides examples of facilities that are licensed. In order to ensure that all children in Nevada facilities are afforded equal protection, we recommend the Legislature consider enacting legislation to make background check requirements consistent for all types of residential facilities that serve children. A bill draft request has been submitted; however, we do not have a bill number.

On page 12, we report that the facilities provided reasonable assurance that they adequately protected the health, safety, and welfare of the youths of the facilities. However, we were unable to obtain assurance that one facility adequately protected the health of the youths at that facility due to significant medication documentation and administration issues. Subsequent to our visit, the facility did revise its medication administration policies and procedures.

Many of the facilities had common weaknesses. These included policies and procedures that had not been developed or were outdated, medication administration processes and procedures that needed to be improved, and complaint and mandatory reporting processes that needed improvement. Pages 12 through 14 contain additional information on these observations.

Exhibit 6 on page 17 shows the locations of the 13 facilities that were reviewed. Pages 18 through 101 contain detailed information on our observations at each of the 13 facilities and the facilities' responses. A summary of common observations of the facilities is contained in Appendix C on page 110. Appendix D on pages 111 through 121 contains information on each of the 50 facilities identified as of December 31, 2008.

I would like to move on to the other report that you have on children's facilities that is dated December 2010 ([Exhibit G](#)).

Chairman Horne:

In this report, you have a combination of facilities that are out-of-state facilities where juveniles are sent.

Jane Bailey:

Yes. We surveyed the different placing entities to determine how many children were placed out of state and in what states and facilities they were placed. However, we did not visit or review any of these facilities.

Chairman Horne:

So, in these facilities, we do not have a clear picture of the background check of employees, et cetera, but you have identified the ones in our jurisdiction?

Jane Bailey:

That is correct, Chairman Horne.

Chairman Horne:

You said there is a bill draft that has been submitted, but you do not have a number yet? The bill draft will make recommendations toward these issues, but not toward the issues in the other states?

Jane Bailey:

Yes. It just addresses background check requirements in Nevada facilities.

Chairman Horne:

I find it uncomfortable that we are sending our children out of state for various reasons, but we do not know where we are sending them.

Jane Bailey:

I believe the Division of Child and Family Services (DCFS) has staff members that visit these facilities and conduct reviews periodically. Our staff has not visited any of them. We do receive the complaints that the placed children may file with the facility.

Assemblyman Frierson:

With respect to the out-of-state facilities, are you aware of whether those states have audits, and do we get copies or other information on their audits?

Jane Bailey:

I am not aware of any other states that function similarly to what we do by going to various facilities. However, all states license facilities so they would have a department that is responsible for conducting inspections and reviews at those facilities when they license them.

Assemblyman Frierson:

You mentioned that you get complaints from the children that are placed in these facilities. Is there a process to follow up on those complaints?

Jane Bailey:

We will if it is a serious complaint. If we feel there is not sufficient information provided on the disposition of that complaint, we will contact the facility. We have, on occasion, contacted the DCFS in Nevada to see whether they are aware of the complaint and if they have a disposition, for example, what actions the facility took to correct any problems. We have also contacted licensing agencies in the other states to determine whether they are aware of the problem, and if they have any other information.

In the second report, there were 57 governmental and private facilities in Nevada. This includes 21 governmental and 36 private facilities. Exhibit 1 on page 2 shows the types of facilities, maximum capacity, average population, and staffing levels for fiscal year 2010 (FY10). In addition, 121 Nevada children were placed in 25 facilities in 12 different states outside of Nevada as of June 30, 2010.

Exhibit 2 on page 4 shows the number of children placed in out-of-state facilities and the placing agencies. This report includes the results of reviews of six facilities and unannounced site visits to six facilities. [Read from page 5.]

On page 6, we make one recommendation to all 57 facilities in Nevada. [She read the recommendation.] The audit subcommittee directed us to inform all of the facilities about this recommendation. Also on page 6, we report that the reviewed facilities provided reasonable assurance that they adequately protected the health, safety, and welfare of the youths at the facilities.

On pages 7 and 8, we report that the most common types of observations made at the facilities include missing policies and procedures, unclear or outdated medication administration processes that need to be strengthened, and complaint processes needing to be improved.

Exhibit 3 on page 10 shows the locations of the facilities we reviewed. Pages 11 through 48 contain details about our observations at each of the six facilities, and the facilities' responses.

Appendix C on page 54 lists the most common observations, and Appendix D on pages 55 and 56 provides additional information on each of the 57 Nevada facilities.

Chairman Horne:

Are there any questions? I see none. Thank you.

Paul Townsend:

To add clarification of the nature of those reports, they came about last session as a result of then-Assemblywoman Leslie's Assembly Bill No. 103 of the 75th Session. This is a unique function; I am not aware of any other legislative audit entity in the country that does this type of work. What makes it unique is the common element of children regardless of the jurisdiction. It addresses those correctional facilities under the jurisdiction of the state, as well as the local governments. We are also looking at mental health facilities and a number of childcare facilities. It is a wide umbrella that we are covering; so we have given you a tremendous amount of information in a short amount of time. At least you get an overview of what we have gotten. If anyone has any questions, we will be happy to discuss it further.

Chairman Horne:

Are there any more presentations?

Paul Townsend:

Yes. The next part of the presentation involves the audit follow up on recommendations, and we have two areas to look at. The first is the Department of Corrections' Inmate Programs, Grievances, and Access to Health Care. This is part of our audit follow-up process when we make recommendations to ensure that action is taken. The agencies have to return to the audit subcommittee and report on their progress. We have a summary of two of those that are of interest to the Committee. Rocky Cooper will address the first one on the Department of Corrections (DOC).

Rocky J. Cooper, Audit Supervisor:

Page 1 of your handout ([Exhibit H](#)) is the highlights from the audit report on the DOC Inmate Programs, Grievances, and Access to Health Care. Our audit was issued in September 2008 and the audit focused on the Department's activities from July 2006 through December 2007. As indicated in the audit highlights, we found that the Department could more effectively manage its programs. For example, assessments of inmate needs were not always used to prioritize which inmates were placed in program classes. The Department had not developed processes to determine the effectiveness of its programs. Better oversight of the Department's grievance process was needed to ensure grievances were addressed within established time frames. Improvements were needed to ensure vital equipment was available and in working order, and emergency response times were adequately documented.

Our audit report contained 31 recommendations. The follow-up process begins on page 2. This is the Department of Administration's six-month report on the implementation status of the audit recommendations. In June 2009, the Department of Administration evaluated the status of the 31 recommendations. On pages 2 through 12, the Department indicated that 17 recommendations were fully implemented and 14 were partially implemented. As indicated on pages 13 through 18, we followed up on the status of their recommendations during October 2009 and found that three more recommendations were fully implemented. On October 26, 2009, we reported the status of the 11 recommendations partially implemented to the audit subcommittee of the Legislative Commission. The schedule on page 17 shows the implementation status and the Department's anticipated date of full implementation of the 11 partially implemented recommendations as of October 2009.

As indicated on pages 19 through 28, we followed up on the status of the 11 remaining partially implemented recommendations in late 2010. During November and December 2010, we received sufficient documentation to conclude that the remaining 11 recommendations were fully implemented. Over all, it took the DOC a little over two years to implement the 31 recommendations. According to the Department, staffing issues, budget shortages, and prioritization of workload contributed to the length of time in implementing the recommendations.

Assemblyman Hansen:

Is there a fiscal cost to the state when they delay implementation?

Rocky Cooper:

There could be in this case because our audit looked at their processes to ensure they were spending their resources wisely on these programs. They receive about \$14 million for correctional behavioral programs and educational programs. If they are not spending their dollars on the best or most effective programs, it could be inefficient.

Assemblyman Hansen:

But it has not been a substantial amount in your opinion? Are we talking about something that needs to be reviewed?

Rocky Cooper:

They have processes in place now to ensure the programs are working as intended. It is more of an efficiency issue directing the resources to the best programs. It was not necessarily wasting dollars; it is just they could be better spent.

Assemblyman Brooks:

I have a question on audit recommendation number 26 on page 17, "Monitor the grievance process to ensure time frames for completing grievances are followed." It was partially implemented. If the grievance process is not being followed correctly, does that mean inmates with grievances are being denied, or does that mean that the time frame is such that it is out of compliance?

Rocky Cooper:

It was more of a delay in the process. Overall, there were quite a few grievances that were not responded to in a timely manner, about an one- or two-week delay in the process. As far as implementation status, it is fully implemented. They enter this information into their new Nevada Department of Corrections Information System (NOTIS) so they can track whether complaints are followed up on in a timely fashion. They did not have a good tracking process. They have also implemented a follow-up process where the various institutions select complaints to review to ensure they have the proper signatures and everything is in place.

Assemblyman Brooks:

Did the audit committee determine the percentage of grievances that have been denied?

Rocky Cooper:

They have a three-tier process that they go through. The inmate can go to the next tier, up to the third tier, and all grievances are heard by the Grievance Committee.

Assemblyman Brooks:

So there is no process that would deny someone from having a grievance heard?

Rocky Cooper:

No, there is no process that would deny them from having a grievance heard. They would all be heard. They all need to be responded to.

Chairman Horne:

Are there any other questions? I see none.

Paul Townsend:

We have one final follow-up report. It is on the Hearings Division and the Nevada Victims of Crime Program. Jane Bailey will present it.

Jane Bailey:

In November 2007, we presented an audit report on the Department of Administration, Hearings Division and the Nevada Victims of Crime Program. It contained 11 recommendations. The highlights of that report are on page 1 of the exhibit ([Exhibit I](#)). The audit found that both the Hearings Division and the Nevada Victims of Crime Program needed to improve their oversight and performance of financial and administrative processes. Victims' claims exceeded the program's available funding during fiscal year 2006 (FY06) and into fiscal year 2007 (FY07). As a result, \$3.8 million in victims' claims were unpaid as of December 31, 2006. Payments of some of these claims have been delayed for more than a year. Claims were subjectively selected for payment when available funds were insufficient to pay all claims. Hospitals and select medical providers were given lowest payment priority; therefore, \$2.4 million of the \$3.8 million in unpaid claims pertain to three large medical service providers. In August of 2008, the Department of Administration submitted its six-month report on the implementation status of the 11 recommendations made in the report indicating 8 recommendations were fully implemented and 3 were partially implemented. The Department's six-month report can be found in your package beginning on page 2. Since then, we have determined that two additional recommendations have been fully implemented, leaving one partially implemented. The partially implemented recommendation was to pay victims' claims in accordance with NRS 217.260 and the State Board of Examiners' policy.

In April 2008, we received a legal opinion from the Legislative Counsel, which can be found on pages 6 through 9. The opinion found that the program's policy of prioritizing the amount and timing of payment of certain victims' claims was inconsistent with provisions of NRS 217.260. The statute states that, if estimated expenses for a quarter exceed available revenue, all claims paid in that quarter must be reduced in the same proportion as the expenses exceed the revenue. In August 2009, . . . [She is interrupted.]

Chairman Horne:

Could you explain that again? If there is not a sufficient amount of funds, it is to be reduced in the same proportion as the shortage?

Jane Bailey:

That is correct.

Chairman Horne:

Can you give the Committee an example?

Jane Bailey:

The program is supposed to estimate quarterly the expected revenues and expenses. If the anticipated expenses exceed the revenues, they are to reduce all payments made during that quarter by the same proportion as the expenses are projected to exceed the revenues. If they project that they only have 75 percent of the revenues they need to pay all claims, the statute requires them to reduce all claims by 25 percent and pay only 75 percent of each claim.

Chairman Horne:

This was not being done?

Jane Bailey:

That is correct. The program was paying certain types of claims first and holding others, sometimes for over a year to see whether they received additional revenue to pay those claims. When that did not happen, after the audit was released, they told us they had \$3 million in claims and paid about \$300,000, so they paid about 10 percent of those claims. Other claims paid earlier in the year had been paid at 100 percent.

In August of 2009, the Board of Examiners changed its policy for paying victims' claims when there is insufficient funding, establishing claim payment priorities. A copy of the applicable sections of this policy is in your packet on pages 10 through 13. This policy reflects the procedures that were followed by the program, which conflicts with the statute when approved claims exceed available funding. The program has submitted a bill draft request changing the requirements of NRS Chapter 217 for paying claims when funding is insufficient. That bill draft request is now Senate Bill 67. Your packet also contains additional correspondence concerning the remaining partially implemented recommendations.

Assemblyman Daly:

Once the reduction is made in a quarter, and that reduction is permanent, and the claim is considered closed, is there an opportunity for them to get additional payment if other money comes in?

Jane Bailey:

They would be done for that quarter. However, the following quarter they would estimate the revenue available and the expenses and adjust the percentage paid.

Assemblyman Daly:

What tier of priority do they end up in next quarter? Is there something in the statute that establishes that?

Jane Bailey:

The statute does not establish tiers. It is strictly based on a payment percentage for that quarter so that all claims will be paid at the same percentage. The tier system was put into effect by the program itself and later adopted in the Nevada Board of Examiners' policies. We have determined that that conflicts with the statute.

Chairman Horne:

Are there any other questions? I see none.

Next on the agenda, we have an overview on the Central Repository for Nevada Records of Criminal History of Nevada.

**Patrick J. Conmay, Division Chief, Records and Technology Division,
Department of Public Safety:**

I am here today to present an overview of the Records and Technology Division, comprised of two interdependent Bureaus, and how we relate with statewide law enforcement, other Department of Public Safety divisions, the courts, and the public.

[Read from handout ([Exhibit J](#)).]

On page 2 of our handout is an overview of our mission and a brief discussion of how the Division came to exist.

[Continued to read from handout.]

[Interrupted to ensure Committee had the handout.]

[Continued to read from handout.]

Page 5 gives a quick breakdown of the court assessments and how they affect the Division. To familiarize you with the statutes on distribution of the court assessments, 51 percent goes to the courts and up to 49 percent goes to a variety of other entities, including the repository. It is frequently believed that the repository receives 49 percent, but, in fact, it receives about one-quarter of the 49 percent Executive Branch allotment.

[Continued to read from handout.]

Assemblyman Hansen:

Page 18 of the handout shows that the total index of crimes has dropped substantially. Does that affect your budget? You should be spending less money.

Patrick Conmay:

I am going to have Ms. Butler respond to that since she is the most familiar with that.

**Julie Butler, Records Bureau Chief, Records and Technology Division,
Department of Public Safety:**

What you see is a summary of index, or serious, crimes as reported by law enforcement agencies statewide. Although the administrative or court assessments that are assessed on each arrest have decreased, our overall need to provide this information has not decreased. The requirements placed on us by the Federal Bureau of Investigation (FBI) and other agencies have not decreased either. Although there has been a drop in crimes, and it is projected to continue to decrease, the overall resources needed to support our system, and to continue to support that system, remain.

Assemblyman Hansen:

On your "Brady – Point of Sale" page, if you have 200 calls a day at \$25 per call, it roughly comes out to \$2 million. Out of that, you identified 435 outstanding warrants. Did this result in any arrests? There was a lot of money, time, and effort spent. Where does the money go and how effective is the program in actually stopping crime?

Julie Butler:

We notify law enforcement of those warrants. We let them know that they have an individual standing at Big 5 that has a warrant, and sometimes they choose to take the individual into custody and sometimes they do not. Just as we are faced with prioritizing our budget, so are they. They mainly target the felony warrants.

In terms of where the money goes, it goes to support our Brady Unit, which is self-funded. It also has increasingly gone to help fund the operation of the Criminal History Repository. The Repository is really the foundation of all of the programs that we run. We could not run the Brady Unit without the underlying criminal history data that it queries.

Assemblyman Hansen:

Does the \$25 cover the cost? Is that a state or federal fee?

Julie Butler:

The \$25 is our state fee. Back when the Brady program was initiated, the states had the choice of opting into the federal program run by the FBI through their National Instant Criminal Background Check System (NICS) unit or opt to set up their own Brady background check. In cooperation with the Nevada Sheriffs' and Chiefs' Association, then-Governor Miller, and the Attorney General, Nevada opted to set up its own Brady background check program. We believe that it is advantageous because the state's Brady background check program is much more thorough.

Patrick Conmay:

I may have misunderstood, but I want to make sure we are clear. These checks did not simply result in the identification of 435 warrants. There were also many occasions where individuals were found not to meet the requirements to purchase a gun. Above and beyond the 435 warrants, there are other people who are not permitted to purchase weapons as a result of the checks.

Assemblyman Hansen:

So the \$25 not only covers the cost of the check, but also supplies a surplus of funds that you are using for other portions of your programs?

Patrick Conmay:

Yes. It covers other shortfalls.

Assemblyman Sherwood:

On slide 13, "Civil Applicant Fingerprints," you mentioned this is a big program in Clark County. I have a constituent who does this for a living. If casinos hire someone, they are required by statute to fingerprint them and share that with the state, or is that something they would keep for themselves?

Patrick Conmay:

Let me point out some differences and then we will talk about it. The slide on page 13 is different from slide 16, "Civil Name Check Program," which is the one that I referenced as having been used largely by the gaming industry in Las Vegas. The civil applicant is fingerprint based and the civil name check is a name-based check.

Assemblyman Sherwood:

So, when casinos fingerprint everyone they hire, do you have access to that database?

Julie Butler:

The civil name check program is not mandated by statute; it is optional. When it was initiated in 1999, the civil name check program was set up primarily as a means for gaming to do a name base check on their applicants. The information that it runs against is the state criminal history database. In the personnel offices in each of the casinos that are participating in the program, there is a dedicated computer that has a virtual private network connection to our criminal history database. They enter the name of the applicant they want to check. A criminal history background check is performed and the results are shared with the personnel office of that casino. Because it is name based, if there is a hit, it will go to our office and we will verify through other demographic identifiers that it is the same person since names are not unique. Then we share the information with the casino.

Assemblyman Sherwood:

Do you have access to the fingerprints from the casino, or only the name?

Julie Butler:

The casinos are not doing fingerprint-based background checks for their applicants that do not involve the gaming itself, such as those in food service or bartending.

Assemblyman Sherwood:

When a fingerprint check is done for casinos the way they are done for Clark County School District, do you have access to it immediately? Is it requested? How does it work?

Julie Butler:

When a person is fingerprinted, it depends on the method. If it comes to us electronically, we do have access to it.

Assemblyman Sherwood:

Do you retain it?

Julie Butler:

We do not currently have the authority to retain many civil applicant prints. The only civil applicant prints that we keep indefinitely in our database are those for carrying concealed weapons and school district employees. We do not retain casino employees or any fingerprints from other occupational licenses that we print for.

Chairman Horne:

Although various private entities, such as gaming, may take fingerprints, it does not mean that they have a database or access to do background checks on their own on these individuals. You would not be able to access information on those fingerprints from them because they must ship them to the repository or the FBI to find out whether this person has history. Is that correct?

Julie Butler:

Yes, that is correct. Agencies do not have the authority to submit fingerprints directly to the FBI. They have to come through the state repository to do so.

Assemblyman Sherwood:

Have you considered going to the Cloud for some of these IT matters?

**Catherine Krause, Technology Chief, Records and Technology Division,
Department of Public Safety:**

I am aware of the Cloud and will always look at various options. Our agency has a lot of unique security requirements, a lot of FBI regulations that might restrict our ability to use a cloud computing type of platform. We will always be looking at what the options are. Up to this point, we have not examined that, and I am not aware of availability of any cloud computing platforms for the criminal justice community that would meet those security requirements. I know that there are a lot of other states and the federal government looking at that. I imagine we will keep apprised of that and, if there is something available and cost-effective for the state, we will certainly examine it at that time.

Chairman Horne:

Are there any other questions? I see none.

Patrick Conmay:

I would like to thank the Committee for inviting us and, if anyone would like a tour of the facility, please contact us.

Chairman Horne:

We will have the next presentation.

**Gail Anderson, Administrator, Real Estate Division, Department of Business and
Industry:**

My presentation is on the Real Estate Division programs and jurisdiction that focus on the chapters which come through the Judiciary Committee. As an overview, the Real Estate Division has jurisdiction over nine chapters of law, with added implementation responsibilities in NRS Chapter 113, which is the sale of real property.

Our largest licensing and regulation program at the Division is real estate brokers and salesmen and those associated permits, which at the close of fiscal year 2010 (FY10) totaled 27,572 licensees. The Division's next largest licensing program is time-share agents and representatives, which is just over 5,000; real estate appraisers at 1,600; community association managers at 659, which is related to the common-interest communities program; and inspectors of structures, the home inspectors, at 384. The Real Estate Division qualifies individuals and issues licenses, permits, certificates, and registrations. It investigates and enforces standards of practice set forth in law, and serves as a real estate information resource for licensees, as well as the public. Within the Real Estate Division, there are three governor-appointed commissions which serve as administrative law bodies. Those would be the Real Estate Commission, the Commission of Appraisers of Real Estate, and the Commission for Common-Interest Communities and Condominium Hotels.

[Interrupted to ensure Committee had the handout. Meeting recessed.]

Chairman Horne:

Let us reconvene. We have resolved the problem.

Gail Anderson:

I am not reading from the document, but I will refer to some of the statistics as I go and will leave the handout ([Exhibit K](#)) with you.

The Real Estate Division's other programs that will come through Judiciary are the programs for the Sale of Subdivided Land, which is Chapter 119 of the NRS; Time-Share Sales, which is Chapter 119A of the NRS; Campground Memberships, which we do not see much legislation on; and the Common-Interest Community related chapters, which are Chapter 116 (Common-Interest Ownership), Chapter 116A (Common-Interest Communities), and Chapter 116B (Condominium Hotel Act). Those are things that you will be seeing.

The common-interest program has been the most active of our programs in terms of recent development in the past four legislative sessions. The handout that you have gives some highlights of the programs themselves. The Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels was created in 1997. Its purpose is to assist homeowners who live within common-interest communities in resolving their homeowners' association (HOA) related disputes and assist in their understanding of their rights and responsibilities, so the Ombudsman is responsible for education and training.

There are several distinct programs or subdivisions within the common-interest community programs, one of which is the registration of units. The Office of the Ombudsman is charged with keeping statistical data concerning these units. On pages 7 and 8 of the report, you will see numbers regarding registered units. There were 2,954 registered HOAs in the state at the close of FY10. Within those, there are 472,372 units. There is a breakdown within the report of the types of units there are: residential, townhouse, manufactured home park, and condominium. The registration aspect of the program is the part that funds the program, which has its own budget account. That is the funding mechanism, the per-unit fee paid by the master associations in the state. There are also 17 full-time positions that are designated solely to this program. That is the registration program. There are very extensive statistical reports that the office keeps and provides to the commission at their meetings. They are available through the Real Estate Division website as well.

Another very important aspect of this program is the informal conferencing. The Ombudsman is charged with attempting to resolve disputes and to provide education and training to boards and unit owners in HOAs. There are some statistics on page 6 of the handout that show both the number of disputes that have been filed with the Ombudsman and then the conferences that are offered. We call the filings to the Ombudsman's Office "intervention affidavits." They are a notarized affidavit and we are attempting to intervene in resolving a problem. In FY10 there were 300 that were filed, reviewed, and processed. The Ombudsman Conferencing Program attempts to resolve issues. The parties must agree to meet, and when they do, the Ombudsman has had very good success in resolving issues. Those percentages are listed as well.

If there are issues that are not resolved at the intervention level, or violations of laws in Chapters 116 and 116A of the NRS, they are forwarded to the investigators in the compliance section of this program. That is the way to get to the Commission if there is substantiation of violations of law. One of the limitations on the compliance side of this program is that we do not have jurisdiction over governing document issues, which would be the covenants, controls and restrictions (CC&R) issues. The Ombudsman deals with every type of issue and tries to get people to meet for resolution, or for us to intervene. The licensees in this program, the community managers and their standards of practice and requirements under law, fall under this jurisdiction as a licensee of the Commission.

Another aspect of this program is the Alternative Dispute Resolution (ADR) program, and you can see page 2 for more information. Actually, this is the first mechanism by which this program was established. Alternative Dispute Resolution comes within a section of Chapter 38 of NRS, which concerns

arbitration and mediation. There is a section pertaining to HOAs. It was created so that, before parties could file civilly, they would have to go through an arbitration or mediation process. The ADR program is facilitated by the Ombudsman's program, but it is not conducted by the Ombudsman, an important distinction. The ADR program is used for governing dispute issues and as a preface to civil action that someone might want to file. We do keep a list of arbitrators and mediators on file through the Real Estate Division.

Another very important part of the program is education, and there are two parts to that. One is the community managers, those who are licensed through a professional licensing program; and the other is education of the HOA residents and boards. This is an aspect of the program that has really taken off and improved in the last two to three years. We offer courses, and there is a full-time education officer in the program. From the last session, there is also a program officer who does training. They give courses throughout the state. They have extensive curriculums on different topics that are targeted toward boards of directors and board members. They teach them the requirements under the law and how to operate and manage their associations. Of course, unit owners and all others may attend at no charge. Fees are paid through the program.

The education section also produces publications. The common-interest communities' manual is currently drafted and some of the chapters have been loaded on our website. Some of them are still being reviewed and formatted, and will be loaded as they are completed. A newsletter is also produced. Other brochures on specific issues and processes are created by this office to assist people with addressing problems, conducting elections, and other specific topics. The website is maintained and kept current with all pertinent information.

I have already mentioned the compliance section, which deals with potential violations of law. It would include actions by anyone under the jurisdiction of this program, like community manager licensees, board members, and unit owners. The processes are administrative law processes with investigations, notices of hearing, and all of the other legal due processes involved. The hearings are before the Commission for Common-Interest Communities and Condominium Hotels. There are two main types of complaints. Usually they are against the boards of directors or a member unit owner, and against the credentialed licensees as well. Those are the main aspects of this program.

The other thing that I want to touch on is some of the issues. A very significant issue in our state housing market, and the economy in general, is the

default and foreclosures effecting HOAs and those who pay the assessments to maintain the common elements of the association. There have been 95 foreclosures for nonpayment of assessments this fiscal year 2011 (FY11) per the January report that I received a couple of days ago. The statistics that are tracked by the Ombudsman's Office relate to foreclosures for nonpayment of assessments, not for nonpayment of mortgages. There have been over 2,000 notices of sale received by the office this fiscal year. Of those, 234 have been canceled, which means they were remedied. Another 603 have been postponed, meaning they are working on something. These are serious issues for HOAs, which were created because they have common elements that need to be supported by the owners who live in the units.

Another issue is this program's and the Real Estate Division's jurisdictional issues that frustrate unit owners when they relate to governing document issues. We cannot take the issue any further other than trying to resolve them with a conference. We refer them to the ADR program. That is hard for the public to understand. We still do everything we can; we make phone calls and contacts. There have been some high profile things in the news media that we are often involved in. We do what we can to see if we can shake something loose, get someone to agree to budge on some issue, and then make it happen.

There are almost 4,000 associations in the state and only a small number of them have serious problems. I do not have the breakdown of complaint statistics, but there are some associations both small and large that have multiple, multiple, multiple complaints filed in the investigative process. They seem to be associations where there are factions or disagreements over some major decision that has been made.

We are most concerned and watchful of fiscal irregularities. We prioritize those. If there are substantiated allegations of money missing or misappropriated, we act on that very, very quickly. A new position that was added in 2009 was that of an auditor for this program. It has been a tremendous help. The auditor has not only been working to reconcile the registration records and those of master and sub-associations, but he has also been doing on-site audits by going to associations and reviewing the fiscal and management records, no matter who handles the financial records. We can also move very quickly, especially on a licensee in our jurisdiction. We work every step of the process in this program to attempt to resolve whatever and wherever it is, on the Ombudsman side or over on the compliance investigation side. If something can be resolved and it does not appear to need a penalty, we get it resolved and, hopefully, the association will be able to work smoothly again.

Nevada has the most expansive laws regarding HOAs in the country. I am very involved nationally with real estate regulators and we are a go-to entity. Most recently, Colorado and Virginia have enacted some legislation concerning HOAs, but Nevada is definitely the most expansive with commissions and enforcement that other jurisdictions do not have. I am not saying this is good or bad; it is what it is. We get asked a lot of questions about regulating HOAs and I have done presentations at conferences on what to consider.

Assemblyman Hammond:

You said you have free classes for boards of directors, but they are not mandatory?

Gail Anderson:

That is correct. They are not mandatory unless the Commission orders attendance as part of a disciplinary action at a hearing.

Assemblyman Hammond:

What education do board members and directors receive as a result of taking these classes? What kind of information do they gain? My logic says they will understand what they can do as members of the board so they can effectively do their job better.

Gail Anderson:

Yes. There are a number of different classes. There is a series, everything from conducting meetings, holding elections, to rights and responsibilities of unit owners. We contract with specialists to present risk management, insurance training, different types of insurance and coverage, and reserve study preparation. They are intended to help board members both understand what their role is and how to perform their volunteer duties.

Assemblyman Hammond:

Upon completion of a certain number of classes, do they get something that says they are certified or are able to conduct meetings or anything like that?

Gail Anderson:

No, they do not. There is no requirement for certification. We can provide a certificate. It might help someone campaigning and running for a board position in their association to say I have had training in this, this, and this. Because there is no requirement in the law for it, we have not been providing one, but we could. There is no certification for them, but there is for professional managers who are licensees.

Chairman Horne:

Are there any more questions for Ms. Anderson? I see none. We are open for public comment.

Kevin Wallace, Vice President of Legislation, Community Association Management Executive Officers, Inc.:

I am in the community association management business. I am the president and CEO of RMI Management and have been for the last 17 years. RMI is a community association management company. We manage about 250 associations and have nearly 600 employees. We also manage about 90,000 homes. We joined RMI with the firm of Ernst & Young, an international accounting firm.

Today I am representing Community Association Management Executive Officers, which manages nearly 250,000 homes in Nevada and employs over 1,500 people. Community Association Management Executive Officers is committed to offering high quality education for community managers. We promote best practices among our members and provide professional advocacy to issues related to community associations. We also serve as an expert resource for legislators on issues related to our industry. We believe that, in Nevada especially, some of the most desirable places to live are in community associations, places such as Summerlin, Southern Highlands, Anthem, Aliante, and Somerset. All of these places are among the most desirable and we believe they are the most desirable because of associations, not in spite of them. We also believe, despite some recent stories about the difficulties in living in HOAs, that these are news because they are unusual, as Gail pointed out.

I want to publicly thank her department. They do a tremendous job, a thankless job. It has always been nice to acknowledge the good work they do.

In my experience over the last 17 years, I believe most board members are hard working individuals. They generally have the right interest in the job and try to do a good job on behalf of their members. They do a good job of balancing the needs of the homeowners with the responsibilities of the association.

We will be working with you on a lot of HOA bills that are in the bill draft list and look forward to it. If you have any questions, we are represented by Bryan Gresh. You can direct your questions to him and he will get them to us and we will get them answered for you.

Chairman Horne:

In your vast experience, how are Nevada's HOAs compared to HOAs in other jurisdictions?

Kevin Wallace:

That is a great question. A couple of things come to mind. Nevada does have a significant amount of regulation compared to other states. In my particular company, I am partners with a national company so I do have a peer group that goes across the country. I interface with other CEOs around the country who do this job. I think the thing that stands out in Nevada is that, by and large, we are better off financially on individual associations even though we are the hardest hit in terms of foreclosures. Because of the structure and the way Nevada's laws work, they protect associations financially. Some of those issues will come up during the session and we will talk about them. We have more regulation—the majority of which is good—that protects the homeowner, protects the associations, and I think financially we are better off than most other states. A lot of associations are in trouble.

Chairman Horne:

Are there any questions for Mr. Wallace? I see none.

That concludes our presentations for today. This Committee will hear a number of HOA bills this session. My intent is to create a subcommittee which will be chaired by Vice Chairman Mr. Ohrenschall. I have yet to decide who the other two members will be on that committee. I hope a majority of those bills will be heard in the subcommittee and then they will report back to the Committee as a whole with its recommendations. The HOA issues can take a good deal of time and I think that would be more efficient to process those bills. There is one issue on HOAs that will probably remain with the Committee as a whole when it appears.

We will open the hearing on Assembly Bill 92. Assemblywoman Lucy Flores is here to present that bill for our consideration.

Assembly Bill 92: Provides for the waiver of fees for the issuance of certain forms of identifying information for certain persons released from prison. (BDR 40-598)

Assemblywoman Lucy Flores, Clark County Assembly District No. 28:

I am presenting A.B. 92 which is a bill that comes from the Advisory Commission on the Administration of Justice. It amends current law which waives the fees associated with getting a copy of a birth certificate and/or issuance of a duplicate driver's license or duplicate identification (ID) card for the homeless. They sign an affidavit that states they are homeless and they are able to get these cards or duplicate birth certificates for free. What this does is it amends that law and provides the same assistance to ex-offenders released from the Department of Corrections (DOC). They are then eligible for

the same waiver for six months from the date of release. They must provide documentation from the DOC verifying their release date.

Those are the changes; they are very simple. However, I will explain why this is a good idea. I realize that this is not the money committee, but the economic impact of this bill, and bills that are broader in policy that are like this bill, is very important because it is at the heart of what this bill intends to do in terms of the economic savings that it produces.

Corrections is now the second fastest growing spending category for states, trailing only behind Medicaid, costing \$50 billion annually and accounting for 1 out of every 14 discretionary dollars. Policies that do not offer support mechanisms for inmates released from correctional centers cost us greatly in recidivism dollars. Currently, it costs \$22,500 per year to house an inmate in Nevada. States across the country are beginning to recognize the economic burden that failed crime policies have created. South Carolina, Louisiana, Indiana, and Michigan are just a few states that are completely overhauling their justice and correctional systems. In 2007, Texas allocated \$241 million for treatment programs for nonviolent offenders. In 2010, they funded 64 reentry transitional coordinators who help the released inmates returning to society find housing and jobs, among other reforms that they undertook.

Between 2007 and 2008, the incarceration rate in Texas fell 4.5 percent, while states on average saw almost a 1 percent increase in their incarceration rates. Most importantly, the state avoided building 17,000 prison beds, which resulted in savings of more than \$2 billion. The DOC giving the recently released inmate a waiver for a birth certificate or identification card is obviously nowhere near the type of reform that Texas undertook, and other states are currently undertaking, but I think it is a small step in the right direction and that it will eliminate a very serious obstacle that many ex-offenders face when they are released from prison. When you are released from prison and do not have the resources necessary to go out and put your life back together, something as simple as getting a driver's license or identification card, or having the necessary documentation to get it such as a birth certificate, is a huge obstacle. How are they going to cash their check if they do not have any identification? They obviously cannot apply for employment. They cannot do the things that we take for granted when oftentimes they are leaving prison with only the clothes on their back. It just makes good policy, good fiscal sense for us to provide them with assistance in order to get them reintegrated into society and not go back to prison.

I will close with this. Currently, we are releasing about 5,000 to 6,000 inmates per year from prison. There is a fiscal note on this bill of about \$200,000.

If fewer than 12 people are helped by this bill, and they do not go back to prison for one year, we have achieved a cost savings. That is just 12 of the 5,000 to 6,000 inmates that are being released every year. It is a huge return on a small investment.

Assemblyman Ohrenschall:

In my district, I have had constituents approach me who have had difficulty getting an identification card and they cannot apply for a job or a license. Oftentimes, they have to try to get a birth certificate from another state, but they are down and out, do not have Internet access, and do not have a credit card that is needed to apply for the birth certificate. So I applaud you for bringing this measure. I think the cost savings will far outweigh any small loss of revenue in the beginning.

Assemblywoman Flores:

Thank you. I will also note that currently there is a very small percentage of offenders that go through Casa Grande Transitional Center and other transitional housing where they do get this type of assistance. I believe there is programming currently available within the DOC that assists inmates in getting birth certificates so they have that at least when they come out. Of course, if they went in with a driver's license, they get that back when they come out. However, it is generally expired so they still have to get another driver's license. This bill only provides for the waiver of fees for duplicate driver's licenses and identification cards. If someone went in and did not have a Nevada ID, they are not eligible for this benefit. It is still narrow in scope, but it is still much more than what is being offered currently for those transitioning back into society.

Assemblyman Hansen:

Why are they eligible for this benefit for six months after they get out? I have dealt with quite a few people that I have hired through the restitution centers who bought their tools when they got out with the \$300 from the loan program, although we have heard testimony that many have not used it. They knew it was a loan and they expected to have to pay it back. Is there any way we can look at this as a loan? Is there some reason for the six-month provision? Six months out seems really long to me.

Assemblywoman Flores:

Generally, that is one of the first things they do. I have spoken to folks who work in the community and if someone does not have an identifying document within 60 days, the likelihood that they are going back to prison increases. The recidivism rate is obviously affected by the 30 to 60 days when they first get out if they do not have a support system. The six months just evolved. This bill was referred by the Advisory Commission on the Administration of Justice.

I am not sure why it is six months, but in my mind, it is an arbitrary time limit so that they know they have six months to get themselves back on track or this option is gone.

Chairman Horne:

I chaired the Advisory Commission on the Administration of Justice, but I do not recall it coming up then. If I remember, inmates who come out go into rehabilitation programs, et cetera, that do not make it convenient to seek employment. Although they are in a facility as a condition of their release, when they get out they can seek employment, which may exceed 60 days.

Assemblywoman Diaz:

I want to make sure I understand this. If a person is not a Nevadan and does not have a Nevada driver's license or birth certificate, they do not qualify for this? What came to mind is what if these people came from California, committed a crime, and are housed in our prison system. Would they be entitled to these privileges?

Assemblywoman Flores:

That is correct. Personally, I would like it to be broader and everyone could have a driver's license, but I am approaching this in a way that will get a bigger reform process in the future. It is limited to folks who are just getting a duplicate ID or driver's license in Nevada. If they were not born in the state of Nevada, they would have to make a request for their birth certificate to whatever state they were born in. Currently, it is limited to people who are requesting duplicates and were born in Nevada.

Assemblywoman Diaz:

Who will take care of this? Do they go directly to the Department of Motor Vehicles (DMV) and request these services? Does the DOC facilitate this process for the inmates? How do they seek the duplication of their ID?

Assemblywoman Flores:

They would go to the DMV and take with them their verification that they were recently released from the DOC. They would have documentation from the DOC or their parole officer that they have been recently released within the six months and that they are eligible for the waiver.

Assemblyman Brooks:

I want to make a comment for the record. I know that prisoner reentry efforts, and particularly at the Las Vegas Urban League, are very important and that there are state funds available. As a large community action agency, this is one of the proactive steps that that agency takes in order to reduce the recidivism

rate for those who have been incarcerated. I thank you for bringing this bill back and I support it fully. I believe if we are going to reduce recidivism, we have to work with folks who are being reentered into society. This is a small step but the benefits are amazing. When someone has been locked up for a period of time, I think we take for granted their ability to maneuver through the system. I think this is a way for us to get them back into the mainstream and it would be particularly useful.

Assemblyman McArthur:

This bill currently pertains to the homeless. I was wondering how many of the homeless participate in this right now and what the cost is? Do you know?

Assemblywoman Flores:

No, I do not. I can try to find that information for you.

Assemblyman McArthur:

How is this paid for right now? Is this through fees for birth certificates and such?

Assemblywoman Flores:

It is paid for in the sense that it is a negative impact. Whatever fees that the DMV would collect by charging for these documents, they would obviously no longer receive. On the long end, we get the savings from people being able to apply for jobs and participate in our economy. While we do not have a line item that actually funds this, the initial impact is that it reduces the fees that the DMV collects.

Assemblyman McArthur:

There may be 50 or a couple hundred homeless that participate now, but if we have 5,000 or 6,000 inmates getting out all of the time, this would really increase the participation in this program. I wonder whether this is going to be a burden on either the DMV or the actual cost that we will have to have initially.

Assemblywoman Flores:

Initially, you would be looking at a reduction in fees that the DMV is going to collect, but ultimately what you are looking at is the offset of having to house someone in the correctional system for \$22,500 a year. If you waive a \$40 fee for someone, it adds to the likelihood that we are not going to pay \$22,500 for him. I would argue that the savings is the investment and that is a good return. I see where you are going with it in terms of the initial cost.

Assemblyman McArthur:

Initially we are going to have costs. Do you know how they came up with the \$200,000 fiscal impact?

Assemblywoman Flores:

They estimated. They took an average of the folks who were being released from the DOC for the last three years. I do not know what number that was, but it is based on between 5,000 and 6,000 people, which is the number of people who have been released. That number actually goes up every year. It has been trending upward for quite a while.

Chairman Horne:

We will ask the Departments with the fiscal notes when they are called up.

Assemblywoman Flores:

They then multiply that by the number of people.

Assemblyman Hammond:

I read through some of the material and I applaud the effort. I think it is a step in the right direction. My only concern is with the fiscal notes. I know that it is a negative impact, but I would be more comfortable seeing something like we experienced yesterday in our meeting where we talked about revolving loans. We should allow them to receive these documents in order to get them back in the workforce and get them ahead in their lives so they do not feel the need to go back to a life of crime, but I would feel more comfortable seeing something where they have a year or two to pay that back into the General Fund, or whatever mechanism we are allowed to use. I do not know whether you want to address that.

Assemblywoman Flores:

I am certainly open to looking at adding that provision if the DMV says it would not cost the same to do that as it would to do what we are doing now. Basically, it would have to offset enough in terms of labor and the creation of a new program to do the collecting, and we would have to save enough, and then I would be open to it. You would have to ask the DMV and DOC whether they think this is easily done.

Assemblyman Hammond:

I think we should follow through with those steps to see whether it is possible.

Assemblyman Hansen:

What is the approximate cost for an individual to get a birth certificate and a driver's license? Are we talking \$25 or \$100? Do you have any idea?

Assemblywoman Flores:

It depends whether they have to get a birth certificate and the duplicate driver's license or identification card. It varies between \$20 and \$50 to \$60. The DMV can probably give you actual figures. The ID is cheaper than the driver's license and the birth certificate is cheaper than both of them.

Assemblyman Hansen:

So under \$100.

Assemblywoman Flores:

Yes. Absolutely.

Assemblyman Hansen:

Are they all put on parole for at least six months when they get out of prison, or do they get out without parole in some cases? The parole officer could act as the enforcer. If we treat this as a loan, with the expectation of getting this back, it may cost more to enforce it than the original cost. It would not make sense fiscally. If you already have a mechanism of collection, we could perhaps do it without any additional cost and have a way to ensure it gets paid back. I think it is a great idea, but my question is whether there is a way to be reimbursed by the individual receiving the benefit.

Assemblywoman Flores:

As I stated, I am open if there is a way that makes sense fiscally. A parole officer is a good idea. I am not entirely familiar with the process and how it works. I think it is an alternative.

Chairman Horne:

Not all inmates are released on parole, so you do have some that have no parole officer. I see no more questions.

I would like to call up those who are in favor of A.B. 92.

Tierra Jones, representing the Clark County Office of the Public Defender:

We are in support of this bill. We agree with everything said by Assemblywoman Flores. I would like to add that identification is very important to a lot of inmates released from custody for some types of housing opportunities. People who do not have Nevada identification cannot get into some shelters and other housing opportunities. We will also be able to assist them in having a place to reside once they are released from custody. It will give them temporary relief until they get to work and get a permanent place to reside.

The last thing I would like to add is that having a duplicate driver's license will prevent these people from driving without a license. We appreciate everything this bill does, but in reality, someone who is released from prison and does not have a driver's license is not going to necessarily not drive. If there is a mechanism in place for them to obtain their driver's license without the fee when it is a financial burden, they would still be able to secure a duplicate driver's license. It keeps the community safer if the people driving are people who have a license. The driver's license would help them contribute to society instead of going back into the system.

John V. Cracchiolo, Executive Director, Nevada Catholic Conference:

I represent Bishop Randolph R. Calvo of the Diocese of Reno, as well as Bishop Joseph Pepe of the Diocese of Las Vegas. They shepherd approximately 600,000 Roman Catholics in the state. We are in agreement with this bill in a very strong way. We agree with all of the things Assemblywoman Flores and Tierra Jones have said about the obstacles and roadblocks to reentering our society and becoming productive, and that they cannot get a job without proper identification. I agree that only 12 people not going back into the prison system at over \$22,000 per year would cover the fiscal impact. It is a loss of fee revenue collected by the DMV, but for every individual beyond twelve, we could impact the overall state budget in a significant way.

Mark Woods, Deputy Chief, Division of Parole and Probation, Department of Public Safety:

We are in support of the bill as it was introduced. However, we will be listening to the amendments. After talking to some of the officers on the street, a lot of these offenders have their ID. The ones who do not are still required to get a job right away or get housing. In the old days, our word would get them a job or housing, but now we cannot do that. They want to see ID and we have pretty much set them up for failure. As soon as they get out, we tell them they have to do this, but they do not have the tools to do it. As introduced, this bill will be a great benefit. I understand the fiscal impact, but if they cannot get a job, they will revert back to crime since that is the only way they can survive, and that will put them back in prison.

Assemblyman Hansen:

Right now, when they are released, do you give them any type of temporary ID or anything? Is there a way to do this through the prison system instead of having them go to the DMV? Can you issue a temporary photo ID so they can get housing? Why do they have to go through the DMV? What is the process?

Mark Woods:

The questions that you are asking are basically for the DOC. We are the back end. We get a pre-release package. They have to have some type of program and residence. As the Chair mentioned, many times they are released to a different program. Once they come out, we do not have the capability, responsibility, or authority to give them any type of ID from the Division of Parole and Probation.

Assemblyman Hansen:

That is something that we could handle through the Legislature.

Chairman Horne:

Let the record reflect that Rebecca Gasca of the American Civil Liberties Union of Nevada is in favor of A.B. 92.

Steven Burt, Executive Director, The Ridge House:

I have done a calculation that I can share that indicates that, for every percentage point savings in recidivism, we are saving essentially a million dollars. It makes good economical sense, but others have already said that. Also, there are some line items in the Department of Employment, Training, and Rehabilitation (DETR) budget through JobConnect Job Opportunities in Nevada workforce dollars that are state funded that provide IDs. We may well have money going from one department to another to purchase the IDs.

I feel that the bill does not go far enough. It is a step in the right direction, of course, but my experience is that, among the programs and halfway houses in northern Nevada, many people are released without birth certificates, and the vast majority of birth certificates are not coming from Nevada. Unless we start a birth certificate retrieval process within the Nevada DOC, they are going to hit the ground with a good seven to eight weeks of lead time before they are able to go to the DMV to apply for a license. That is beyond the sixty days where we have recidivism. I took a quick poll yesterday of the halfway houses in Reno, and there are people there who are not working that have been there for seven or eight weeks. I moved one veteran over to my program because I have funding for him since he is a veteran who does not have a birth certificate yet.

That is the type of thing that is happening, and it is also closing beds. When that person cannot get a job and cannot start contributing to their halfway house fees, the halfway house beds are going to go away as well. This is a trickle-down effect that affects the entire prisoner reentry and DOC system from a budgetary standpoint.

Assemblyman Sherwood:

Would it make more sense if we identify who was ready for release and got the birth certificates a couple of weeks before that? I do not know whether the bill talks about that. Could we make it more accommodating for the folks we know are going to be in the program? This could free the beds up even sooner.

Steven Burt:

We have effected some change at my program. We only accept those former offenders who have a birth certificate in their file at the DOC; therefore, there is a little more lead time to get into my program. I do not have that problem. My people are getting jobs within three weeks of release. When the caseworker at the DOC targets a person for my program, and he fills out the application, if I see that he does not have a birth certificate or any form of ID in his file, I request that the caseworker start the process, and he always does. They always come out with a birth certificate and are almost always working within a month. Where the bill can go further is to ask the DOC to request the birth certificate at admission. In the treatment field, discharge planning starts at admission. That is how I feel it should go in the long run. Small steps of course, but the big step does not seem that much further in this case.

Larry D. Struve, Advocate, Religious Alliance in Nevada:

The Catholic Conference that John Cracchiolo represents is a member of this conference. We also have other denominations like the Episcopal Diocese of Nevada, the Nevada Presbytery, the United Methodist Church, and the Evangelical Lutheran Church in America in our coalition.

The Religious Alliance in Nevada (RAIN) got involved in this topic about two or three years ago when the Commission on the Administration of Justice was looking at how to get the cost of our prison administration under control. Then-Chairman Justice Hardesty asked RAIN to convene a meeting of the heads of our judicatories. There are 600,000 Catholics alone in our coalition and when you add the others, we are talking about 700,000 or more Nevadans who are concerned with this issue. At that meeting, it became evident that, as we release these 5,000 or 6,000 people back on to the streets and they come into our congregations and into our other public places, many had absolutely no program to help them successfully reenter society. Therefore, RAIN took that on as a project. We were here during the 2009 Session supporting two bills on this subject. One was Assembly Bill No. 252 of the 75th Session, which is the forerunner of what is before you. The other bill was Senate Bill No. 236 of the 75th Session, which established a special revenue account in the Nevada State Treasury that could receive gifts, grants, and donations to provide money to develop reentry programs and services for these prisoners being released onto the streets. The reason we supported A.B. No. 252 of the 75th Session was

that we thought it was a way for the Legislature to symbolically take a step indicating how significant the reentry program in this state is in terms of saving dollars in our prison system and over the long term. The bill, unfortunately, did not get out because of the fiscal note, but the 2009 Legislature did pass S.B. No. 236 of the 75th Session.

After that occurred, RAIN launched a campaign in 2010 to go to all of the congregations throughout the state to bring the message to our parishioners to tell them the inconvenient truth that many of our inmates come out on the streets without any ID. The first step for successful reentry is having a valid ID. In the last year, we have collected about \$14,000, which has been deposited into this reentry account. We have been in discussions with the DOC and the Department of Public Safety (DPS) and it is my understanding that money is being transferred to the DOC so they can start ensuring that, as far as that money will go, they are getting IDs for the inmates that they are releasing. Unfortunately, \$14,000 does not go very far given the number of prisoners being released.

Secondly, it is not clear that RAIN has the capability to launch any further major fundraising efforts. What we wanted to do was demonstrate that there is backing for supporting reentry and raising funds to get these ex-offenders identified and out on the streets in order for most of them to find a way toward a more wholesome life. We think by raising this sum of money, we have achieved that objective.

I think some of the questions I have heard are indicating you are expecting more out of A.B. 92 than can really be achieved. As Assemblywoman Flores has indicated, this bill can only help those who were born in Nevada or those who have already had a driver's license or ID card issued in Nevada. The vast majority of inmates who come out onto our streets are going to have to go elsewhere outside of Nevada to get this help. That is how these two bills complement each other. For those in Nevada for whom we can waive the fee, which is probably a small fraction of the 5,000, it is a very small price to get them back on their feet by recovering the ID that they have already had, or to recover their birth certificate if they were born in Nevada. For those who are not able to be helped by that approach, we have set up this special revenue account and it is my understanding the DOC and the DPS are also working to try to find grant money and set up interagency cooperation to help the other inmates who have to start from scratch in getting an ID.

This is a small step, but a significant one. On behalf of RAIN, we hope you will process this bill and get it through this session. It is a nice way to send a message that reentry is important and we must do something about it.

Assemblyman Hansen:

This is the same basic bill that passed last time, but was essentially unfunded. Is that correct?

Larry Struve:

The bill passed out of Judiciary unanimously. The merits of the bill were not in question. When it got to the floor of the Assembly, it was placed on the Chief Clerk's desk because there was a fiscal note. As you have heard, the amount of money that was associated with the fiscal note was not considered in relation to the cost of those who might go back to prison.

Assemblyman Hansen:

I like the bill. What I am trying to do is save it from the same fate this time. Mr. Burt mentioned that the prison system gets birth certificates in advance when you make the request. Is there a way to have that done? To essentially eliminate the need for this bill which may die because we do not have any more money in the funding budget this time like last time?

Steven Burt:

I do not know the funding sources of those birth certificates when I request them. Bradford Glover does the reentry for the DOC and he may be better able to answer that question.

Assemblyman Hansen:

We may rescue this bill from the possible same fate as last time if we can address something like that.

Steven Burt:

That is why we are here.

Chairman Horne:

Mr. Struve has brought exhibits that were not included in the Nevada Electronic Legislative Information System (NELIS).

Larry Struve:

The handouts are the RAIN statement of what we presented in the 2009 session ([Exhibit L](#)), and the second handout is the bulletin inserts we used in our congregations to show what happens if someone is released to the streets without valid ID ([Exhibit M](#)). I think the exhibits speak for themselves.

Mario DelaRosa, representing Progressive Leadership Alliance of Nevada:

Currently, we are working on a racial report card. We think this bill is going to be impacted in a very positive way for a huge percentage of people of color. As you know, people of color make up 45 percent of the inmate population in Nevada. We will include this bill in our report.

Orrin J. H. Johnson, Deputy Public Defender, Washoe County Public Defender's Office:

I want to go on record to state that we support the bill. Based on some of the questions, we would resist the scheme to try to have people repay it, not because we do not think that is good in theory, but because the logistics would wind up taking away a lot of the cost savings and reducing a lot of the benefit. People getting out of prison after a lot of years take time, effort, and energy to put their lives back together from scratch. This is a small cost with great benefit for a future that will allow them to do that. I ask that this Committee resist such a change.

Bradford Glover, Re-Entry Coordinator, Re-Entry Program, Department of Corrections:

My day-to-day responsibility is to provide a range of services to our nearly 5,500 to 6,000 inmates being released each year back into our communities. I want to give you a broader update about what we do. We currently process birth certificates and try to provide a birth certificate for every inmate being released, but they have to request it. My reentry staff statewide does birth certificate sessions where they go into each pod and put up sign-up sheets and posters saying anyone who wants a birth certificate, come and get it. We pay for this for anyone who is considered indigent, and when we say "indigent" that means they have less than \$10 on their books. We pay directly through general funds and/or inmate welfare funds, so we do have funds for that. Aside from that, if an inmate falls within a particular target population for a grant, our federal grants will also pay for that as well.

The second thing is Social Security cards. This is the second working document that inmates being released need in order to find employment. We do have a memorandum of understanding with the Social Security Administration. We process Social Security card requests for anyone within the DOC who does not have a Social Security card or needs a replacement. This is done statewide.

The third document that they need is a Nevada identification card. Currently, we only provide this service for work camps. The two work camps in the state are Northern Nevada Restitution Center and Casa Grande Transitional Center in the south. One of the things that we have done internally is, before anyone who is considered minimum custody and able to go to either of these two

locations, he has to have those three working documents. We made a change internally, so anyone going to these locations—right now the population at Casa Grande is 330 and Northern Nevada Restitution Center is about 76—we process these working documents for them. We have been very successful in obtaining these documents. We are also fortunate to get some money from RAIN. They raised \$14,000 and right now I am working on a procedure for a voucher system with the DPS fiscal people and ours.

Luana Ritch, Chief, Bureau of Health Statistics, Planning, Epidemiology, and Response, Health Division, Department of Health and Human Services:

Our fiscal note is relatively small. The way we came to our fiscal note is that we looked at and compared this population with our general population. Among the general population in Nevada, only about 25 percent were born in Nevada so we would have their birth certificates. Of that number, we issue approximately 27,000 birth certificates a year. This represents about 21 percent of that 25 percent a given year. We applied that number and rounded it up a little because of the transient nature of the population. Since they may be more unlikely to have a birth certificate, we rounded that from 21 percent to 30 percent and applied that to the number of inmates that are released. We made an assumption that 25 percent of inmates released were born in Nevada. Of that, approximately 30 percent may need a birth certificate. A birth certificate fee through our office is \$20; \$17 of that is deposited into the General Fund, and \$3 is deposited into the Children's Trust Account. We do have in NRS 440.700 existing authority to waive the fee for individuals who are homeless and sign an affidavit to that effect, regardless of any programs they are in. We are currently putting together materials to do an outreach with the Nevada Office of Veterans' Services to educate service officers about it. We would be more than happy to include individuals who work with inmates released from prison that are also homeless.

Mark Froese, Administrator, Management Services and Programs Division, Department of Motor Vehicles:

How the Department of Motor Vehicles came up with our fiscal note is that we got the release numbers from the DOC for the previous three years, averaged them, and came up with the number of 6,123 inmates being released. We then used that number against what it cost for a duplicate driver's license. A duplicate driver's license costs \$17. Of that \$17, \$3 has to be paid to the vendor to compensate them for producing the photo and mailing out the ID card to the individual. The other cost that we will see in the first year is the programming cost that we would incur to implement these changes into our existing application. I would like to point out that, in our fiscal note, we also requested the implementation date to be January 1, 2012, to accommodate our programming needs for this.

Chairman Horne:

Is your note for all of the \$20 or just the \$3 for the vendor?

Mark Froese:

It encompasses the \$17 for the duplicate. It has already been stated that, in order for an individual to get a duplicate, they already have to be in the DMV system. We did not know how many people qualify for that, so we just took the entire 6,123.

Chairman Horne:

So you took the entire population?

Mark Froese:

Correct.

Chairman Horne:

We will have an opportunity to discuss this at work session. If there are no more questions, we are adjourned [at 10:59 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Committee Secretary

APPROVED BY:

Assemblyman William C. Horne, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: February 11, 2011

Time of Meeting: 8:06 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Paul Townsend	Audit Report on Peace Officers' Standards and Training Commission, 2009
	D	Paul Townsend	Audit Report on Office of State Public Defender, 2009
	E	Paul Townsend	Audit Report on Board of Parole Commissioners, 2010
	F	Jane Bailey	Review of Governmental and Private Facilities for Children, 2010
	G	Jane Bailey	Review of Governmental and Private Facilities for Children, December 2010
	H	Rocky Cooper	Audit Follow-up on Recommendations, Department of Corrections, Inmate Programs, Grievances, and Access to Health Care
	I	Jane Bailey	Audit Follow-up on Recommendations, Department of Administration, Hearings Division and Nevada Victims of Crime Program
	J	Patrick Conmay	Handout on written testimony and slide presentation
	K	Gail Anderson	Summary of the role of the "HOA Ombudsman"

A.B. 92	L	Larry Struve	RAIN statement of what they presented in the 2009 Session
A.B. 92	M	Larry Struve	Bulletin insert from RAIN, "Passport to a New Life"

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